

NOT FOR PUBLICATION

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Baldomero Louis Verduzco,

Petitioner,

vs.

Unknown Matson, et al.

Respondents.

No. CV09-1278-PHX-SRB

**ORDER**

Petitioner filed his Amended Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 on September 10, 2009 claiming that: 1) his Fourteenth Amendment Due Process and Equal Protection Rights were violated as a result of the state court's refusal to order specific performance of the plea agreement provision governing use of prior convictions; and 2) denial of Due Process and Equal Protection as a result of the state court's court's treatment of his state habeas petition as a petition for post-conviction relief in violation of the Arizona Constitution. On November 12, 2009, Respondents filed their Response to the Petition for Writ of Habeas Corpus. On December 9, 2009 Petitioner filed a Traverse. On November 16, 2010, the Magistrate Judge issued his Report and Recommendation recommending that the first claim in the petition be dismissed with prejudice and that the balance of Petitioner's Amended Petition for Writ of Habeas Corpus be denied.

1 In his Report and Recommendation the Magistrate Judge advised the parties that they  
2 had 14 days from the date of service of a copy of the Report and Recommendation within  
3 which to file specific written objections with the Court. On November 19, 2010, Petitioner  
4 filed a premature Notice of Appeal. This Court issued an order on January 12, 2011 allowing  
5 Petitioner an additional 14 days from the date of the order to filed specific written objections  
6 to the Magistrate Judge's Report and Recommendation. No objections to the Report and  
7 Recommendation have been filed.

8 The Court finds itself in agreement with the Report and Recommendation of the  
9 Magistrate Judge.

10 IT IS ORDERED adopting the Report and Recommendation of the Magistrate Judge  
11 as the order of this Court.

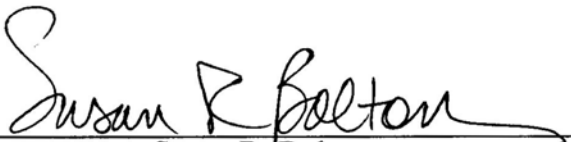
12 IT IS FURTHER ORDERED that first claim in the Amended Petition for Writ of  
13 Habeas Corpus (breach of plea agreement) is dismissed with prejudice.

14 IT IS FURTHER ORDERED that the second claim (treatment of state habeas petition)  
15 is denied.

16 IT IS FURTHER ORDERED denying a Certificate of Appealability.

17 IT IS FURTHER ORDERED directing the Clerk to enter judgment accordingly.  
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19 DATED this 9<sup>th</sup> day of February, 2011.  
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24 Susan R. Bolton  
25 United States District Judge  
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